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**FEB 05 2004**

**OFFICE OF PETITIONS**

In re Application of :  
Farrokh Ayazi, Siavash Pourkamali, and Seong :  
Yoel No :  
Application No. 10/632,176 :  
Filed: July 31, 2003 :  
Attorney Docket No. 062020-1440 :  
Title: CAPACITIVE RESONATORS AND :  
METHODS OF FABRICATION :

DECISION ON PETITION  
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)<sup>1</sup>, filed November 24, 2003.

On July 31, 2003, the application was deposited, identifying Farrokh Ayazi, Siavash Pourkamali, and Seong Yoel No as joint inventors. The application was deposited without a fully executed oath or declaration. On October 29, 2003, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a new declaration would be required<sup>2</sup>, along with a surcharge of \$130.00. This Notice set a two-month period for reply.

On November 24, 2003, the Office received a copy of the previously submitted declaration along with an extra page which supplies the previously omitted information, the surcharge, a statement of facts, print-outs of three online search results, copies of a letter and e-mails which were sent to

1 A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
  - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
  - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- ~~(5) a declaration which complies with 37 CFR §1.63.~~

<sup>2</sup> The declaration was not executed by the third joint inventor. Furthermore, the declaration listed neither a residence nor a post office address for the non-signing inventor.

the non-signing inventor, and an employment agreement. The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventors. *As petitioner has set forth that the non-signing joint inventor cannot be reached, petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* Although Petitioner has proven that he conducted several online searches, it is noted that the final page of the employment agreement (entitled "Georgia Institute of Technology, Personal Data Form") contains a name, address, and phone number in the D.C. Metropolitan area and lists this person as the emergency contact for the non-signing inventor. It would seem that the first step in undertaking a diligent effort to locate this non-signing inventor would be to attempt to make contact with this individual, as it is highly likely that he or she might be apprised as to the whereabouts of the non-signing inventor. Unfortunately, it does not appear that this individual was contacted.

For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and must contain evidence that Petitioner followed the lead provided to him by the Personal Data Form discussed above. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.47(a)."

The reply to this letter may be submitted by mail<sup>3</sup>, hand-delivery<sup>4</sup>, or facsimile<sup>5</sup>.

**The application file will be retained in the Office of Petitions for two (2) months.**

Telephone inquiries should be directed to the undersigned at (703) 305-0011.



Paul Shanoski  
Attorney  
Office of Petitions  
United States Patent and Trademark Office

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<sup>3</sup> Mail-Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

<sup>4</sup> Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

<sup>5</sup> (703) 872-9306, attention Office of Petitions, Attorney Paul Shanoski.